REMARKS

The Examiner is thanked for the thorough examination of the present application. The Office Action mailed May 1, 2007, rejected claims 72-84. This is a full and timely response to that outstanding Office Action. Upon entry of the amendments in this response, claims 72-84 are pending. More specifically, claims 72, 79, and 83 are amended, and no new matter is added in the application. These amendments are specifically described hereinafter.

I. Present Status of Patent Application

Claims 72, 74-76, 79, and 81 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Urakoshi, et al.* (U.S. Patent No. 6,067,564) as evidenced by *Wasilewski* (U.S. Patent No. 5,420,866). Claims 73, 77-78, 80, and 83-84 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Urakoshi, et al.* (U.S. Patent No. 6,067,564) as evidenced by *Wasilewski* (U.S. Patent No. 5,420,866) and in view of *Wasilewski* (U.S. Patent No. 5,420,866). Claim 82 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Urakoshi, et al.* (U.S. Patent No. 6,067,564) as evidenced by *Wasilewski* (U.S. Patent No. 5,420,866) in view of *Chaney* (U.S. Patent No. 6,035,037). These rejections are respectfully traversed, where not rendered moot by amendment.

II. Examiner Interview

Applicant first wishes to express sincere appreciation for the time that Examiner Pich spent with Applicant's representative Benjie Balser during a June 25, 2007 telephone discussion regarding the above-identified Office Action. During the interview, clarification of the rejection

under Urakoshi were discussed, and that the outcome of this discussion is addressed herein. Applicants believe that the amendments presented herein are consistent with the suggestions and/or overall discussion with Examiner Pich. Thus, Applicant respectfully requests that Examiner Pich carefully consider this amendment and response.

III. Rejections Under 35 U.S.C. §102(e)

A. Claims 72 and 74-76

The Office Action rejects claims 72 and 74-76 under 35 U.S.C. §102(e) as allegedly being anticipated by *Urakoshi, et al.* (U.S. Patent No. 6,067,564) as evidenced by *Wasilewski* (U.S. Patent No. 5,420,866). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

Independent claim 72, as amended, recites:

> 72. A method of providing a terminal in a conditional access system with s services, the method comprising the steps of:
>
> ***associating services with entitlement unit numbers, an entitlement unit number corresponding to a particular package of bundled services, wherein the entitlement unit number is carried with at least one encrypted control word in a payload of an entitlement control message (ECM)***;
>
> providing the terminal with an electronic program guide that associates universal service identification numbers to services;
>
> providing the terminal with an entitlement unit table that translates universal service identification numbers to entitlement unit numbers; and
>
> providing the terminal with an authorized entitlement unit number, wherein responsive to a user selecting a given service, the terminal determines whether the terminal is authorized to access the given service using the electronic program guide, the entitlement unit table, and the authorized entitlement unit number and displays the given service.

(Emphasis added).

Applicant respectfully submits that claim 72 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that the amendments to claim 72 have rendered the rejection moot. Applicant respectfully submits that independent claim 72, as amended, is allowable for at least the reason that *Urakoshi* does not disclose, teach, or suggest at least **associating services with entitlement unit numbers, an entitlement unit number corresponding to a particular package of bundled services, wherein the entitlement unit number is carried with at least one encrypted control word in a payload of an entitlement control message (ECM)**. The Office Action alleges that "*Urakoshi* discloses… Associating services with entitlement unit numbers, an entitlement unit number corresponding to a particular package of bundled services (Fig 11, item 111; col 5, lines 3-13; and col 7, lines 40-42)" See *Office Action*, page 6. As defined in the specification, in at least one embodiment, an entitlement unit is a package of bundled services. See *Application*, page 1, line 15. An entitlement unit number, therefore, may be a number that identifies a particular bundle. As supported by the Applicant's disclosure, the entitlement unit numbers, along with the control words, are contained in the entitlement control message.

The Office Action alleges that an entitlement unit number may be one of a data number, a channel number, a start time, an end time, a price, and a monthly charge limit. *See Office Action*, pg. 6. However, Applicant respectfully submits that these interpretations do not agree with the

specification taken as a whole, and in respect to exemplary embodiments presented in the specification. In one exemplary embodiment, as supported by the specification, a decryptor decrypts the entitlement control message to reveal a list of all entitlement unit numbers to which the currently received service belongs. For example, a first entitlement unit may include both HBO and Cinemax, whereas a second entitlement unit may include only HBO. Applicant respectfully submits that one of ordinary skill in the art, taking into consideration the specification taken as a whole, would not interpret an entitlement unit number as one of a data number, a channel number, a start time, an end time, a price, and a monthly charge limit as alleged by the Office Action.

Words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). Applicant respectfully submits that interpreting the entitlement unit number as a data number, a channel number, a start time, an end time, a price, and a monthly charge limit is inconsistent with the specification. "[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, *i.e.*, as of the effective filing date of the patent application." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (*en banc*). *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, (Fed. Cir. 2003); *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, (Fed. Cir. 2003)("In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art."). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately

reflects both the "ordinary" and the "customary" meaning of the terms in the claims. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, (Fed. Cir. 2003).

Additionally, the ordinary and customary meaning of a term may be evidenced by a variety of sources, including "the words of the claims themselves, the remainder of the specification, the prosecution history, and extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art." *Phillips v. AWH Corp.*, 415 F.3d at 1314. If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with applicant's use of the terms. *Brookhill-Wilk 1*, 334 F. 3d at 1300; see also *Renishaw PLC v. Marposs Societa" per Azioni*, 158 F.3d 1243, 1250, (Fed. Cir. 1998) ("Where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings.").

It is clear from these teachings that an entitlement unit number cannot properly be interpreted as a data number, a channel number, a start time, an end time, a price, and a monthly charge limit in light of the specification as a whole. Further, *Urakoshi* does not disclose an entitlement unit number with at least one control word carried in a payload of an ECM as claimed. Therefore, *Urakoshi* does not anticipate independent claim 72, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 72, as amended, is allowable over the cited references of record, dependent claims 74-76 (which depend from independent claim 72) are allowable as a matter of law for at least the reason that dependent claims 74-76 contain all the features of independent claim 72. *See Minnesota Mining and Manufacturing Co. v. Chemque,*

Inc., 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 74-76 are patentable over *Urakoshi*, the rejection of claims 74-76 should be withdrawn and the claims allowed.

B. Claims 79 and 81

The Office Action rejects claims 79 and 81 under 35 U.S.C. §102(e) as allegedly being anticipated by *Urakoshi, et al.* (U.S. Patent No. 6,067,564) as evidenced by *Wasilewski* (U.S. Patent No. 5,420,866). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

Independent claim 79, as amended, recites:

79. A method of providing a service to a terminal in a conditional access system, the method implemented at the terminal and comprising the steps of:
receiving an electronic program guide that associates universal service identification numbers to services;
receiving an entitlement unit table that translates universal service identification numbers to entitlement unit numbers, an entitlement unit number corresponding to a particular package of bundled services, wherein the entitlement unit number is carried with at least one encrypted control word in a payload of an entitlement control message (ECM);
receiving an authorized entitlement unit number;
receiving user input for a given service;
determining whether the terminal is authorized to access the given service using the electronic program guide, the entitlement unit table, and the authorized entitlement unit number; and
displaying the given service if the terminal is authorized to access it.

(Emphasis added).

Applicant respectfully submits that claim 79 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features of the claim at issue.

Applicant respectfully submits that the amendments to claim 79 have rendered the rejection moot. Further, for similar reasons presented above in association with claim 72, Applicant respectfully submits that independent claim 79, as amended, is allowable over *Urakoshi*. Therefore, *Urakoshi* does not anticipate independent claim 79, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 79, as amended, is allowable over the cited references of record, dependent claim 81 (which depends from independent claim 79) is allowable as a matter of law for at least the reason that dependent claim 81 contains all the features of independent claim 79. Therefore, since dependent claim 81 is patentable over *Urakoshi*, the rejection of claim 81 should be withdrawn and the claim allowed.

IV. Rejections Under 35 U.S.C. §103(a)

A. Claims 73, 77, and 78

The Office Action rejects claims 73, 77, and 78 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Urakoshi, et al.* (U.S. Patent No. 6,067,564) as evidenced by *Wasilewski* (U.S. Patent No. 5,420,866) and in view of *Wasilewski* (U.S. Patent No. 5,420,866). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

For at least the reason that independent claim 72 is allowable over the cited references of record, dependent claims 73, 77, and 78 (which depend from independent claim 72) are allowable as a matter of law for at least the reason that dependent claims 73, 77, and 78 contain all the features of independent claim 72. Additionally, with regard to the rejection of claims 73, 77, and 78, *Wasilewski* does not make up for the deficiencies of *Urakoshi* noted above. Therefore, claims 73, 77, and 78 are considered patentable over any combination of these documents for at least the reason that claims 73, 77, and 78 incorporate allowable features of claim 72 as set forth above.

Additionally, with regard to claim 73, the Office Action alleges that

> "Urakoshi does not explicitly disclose wherein the authorized entitlement unit number is provided to the terminal in an entitlement management message (EMM). However, Wasilewski discloses transmitting information for controlling access to different programs or tiers of programs to a terminal via an entitlement management message (col 4, line 55-col 5, line 12). How much a user has to pay to access a given program is information for controlling access to different programs or tiers of programs.
>
> At the time applicant's invention was made, it would have been obvious to one skilled in the art to modify Urakoshi's invention according to the limitations recited in claim 73 in light of Wasilewski's teachings. *One skilled would have been motivated to do so because Wasilewski discloses that the MPEG-2 Systems Committee recommended that program access information should be transmitted to a terminal via EMM's.*" (*Emphasis Added*)

See *Office Action*, page 10. Applicant respectfully submits that it would not have been obvious at the time of the invention to include the authorized entitlement unit number in an EMM. Instead, it would appear to be more reasonable to one skilled in the art to transmit the authorized entitlement number in a bit map. Accordingly, it appears that this rejection of claim 73 has been made using impermissible hindsight. "It is impermissible … simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template

and selecting elements from references to fill the gaps." In re Gorman, 933 F.2d 982, 987, 18 U.S.P.Q.2d 1885 (Fed. Cir. 1991). Since it would not have been obvious to one of ordinary skill in the art at the time of the invention to include the authorized entitlement unit number in the EMM, Applicant respectfully submits that the rejection should be withdrawn and the claim be allowed.

B. Claims 80 and 82-84

The Office Action rejects claims 80 and 83-84 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Urakoshi, et al.* (U.S. Patent No. 6,067,564) as evidenced by *Wasilewski* (U.S. Patent No. 5,420,866) and in view of *Wasilewski* (U.S. Patent No. 5,420,866). The Office Action rejects claim 82 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Urakoshi, et al.* (U.S. Patent No. 6,067,564) as evidenced by *Wasilewski* (U.S. Patent No. 5,420,866) in view of *Cheney* (U.S. Patent No. 6,035,037). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

For at least the reason that independent claim 79 is allowable over the cited references of record, dependent claims 80 and 82-84 (which depend from independent claim 79) are allowable as a matter of law for at least the reason that dependent claims 80 and 82-84 contain all the features of independent claim 79. Additionally, with regard to the rejection of claims 80 and 83-84, *Wasilewski* does not make up for the deficiencies of *Urakoshi* noted above. Further, with regard to the rejection of claim 82, *Cheney* does not make up for the deficiencies of *Urakoshi* noted above. Therefore, claims 80 and 82-84 are considered patentable over any combination of

these documents for at least the reason that claims 80 and 82-84 incorporate allowable features of claim 79 as set forth above.

Further, regarding claim 80, the Office Action alleges that

> "Urakoshi does not explicitly disclose wherein the authorized entitlement unit number is provided to the terminal in an entitlement management message (EMM). However, Wasilewski discloses transmitting information for controlling access to different programs or tiers of programs to a terminal via an entitlement management message (col 4, line 55-col 5, line 12). How much a user has to pay to access a given program is information for controlling access to different programs or tiers of programs.
>
> At the time applicant's invention was made, it would have been obvious to one skilled in the art to modify Urakoshi's invention according to the limitations recited in claim 73 in light of Wasilewski's teachings. *One skilled would have been motivated to do so because Wasilewski discloses that the MPEG-2 Systems Committee recommended that program access information should be transmitted to a terminal via EMM's*." (*Emphasis Added*)

See *Office Action*, page 10. Applicant respectfully submits that it would not have been obvious at the time of the invention to include the authorized entitlement unit number in an EMM. Instead, it would appear to be more reasonable to one skilled in the art to transmit the authorized entitlement number in a bit map. Accordingly, it appears that this rejection of claim 80 has been made using impermissible hindsight. "It is impermissible … simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps." In re Gorman, 933 F.2d 982, 987, 18 U.S.P.Q.2d 1885 (Fed. Cir. 1991). Since it would not have been obvious to one of ordinary skill in the art at the time of the invention to include the authorized entitlement unit number in the EMM, Applicant respectfully submits that the rejection should be withdrawn and the claim be allowed.

V. Miscellaneous Issues

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 72-84 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

It is believed that no extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account No. 20-0778.

Respectfully submitted,

/BAB/
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